



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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Preston Bryant
Secretary of Natural Resources

David K. Paylor
Director

Gerard Seeley, Jr.
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT

ISSUED TO

S.B. Cox Ready Mix, Incorporated
Registration No. 51258

SECTION A: Purpose

This is a Consent Order issued under the Authority of Va. Code § 10.1-1309 and 10.1-1316 between the State Air Pollution Control Board and S.B. Cox Ready Mix, Incorporated, for the purpose of resolving certain alleged violations of environmental laws and regulations and to provide for the payment of civil charges.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code § 10.1-1301 and 10.1-1184.
3. "Department" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Regulations" mean the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution, 9 VAC 5-10-10 *et seq.*
7. "S.B. Cox" means S.B. Cox Ready Mix, Incorporated certified to do business in Virginia

and its affiliates, partners, subsidiaries, and parents.

8. "Facility" means the S.B. Cox Ready Mix, Incorporated site located at 1920 Anderson Highway, Powhatan, Virginia.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Permit" means the New Source Review permit issued to S.B. Cox on June 19, 1997.

SECTION C: Findings of Facts and Conclusions of Law

1. S.B. Cox operates a concrete batch plant located at 1920 Anderson Highway, Powhatan, Virginia (NAICS Code 327320). This facility is the subject of the Permit issued to S.B. Cox on June 19, 1997.
2. On July 12, 2005 an air compliance inspection was performed at S.B. Cox. As a result of the inspection the facility was found to be out of compliance with Conditions 3, 10, 15 and 16 of the Permit.
3. On November 15, 2005, PRO issued a Notice of Violation to S.B. Cox. identifying an apparent violation of the Air Pollution Control Law and regulations. The Notice of Violation issued by DEQ, cited the following alleged violations:
 - Condition 3 of the Permit requires a fabric filter to control particulate emissions from the cement/flyash storage silos, weigh batcher, and from the loading of the mixing trucks through the loading boot. During the onsite inspection the fabric filter inlet duct was detached creating a bypass of pollution control equipment. (9 VAC 5-80-10 H and 9 VAC 5-50-260)
 - Condition 10 of the Permit requires that visible emissions from stockpiles, storage bins, batchers, hoppers, mixers and conveyor transfer points shall not exceed ten percent opacity. During the onsite inspection the visible emissions were above the permitted limit during the operation of the load out. (9 VAC 5-50-260 and 9 VAC 5-50-410)
 - Condition 15 of the Permit requires that if for any reason, the permitted facility or related air pollution control equipment fails or malfunctions and may cause excess emissions for more than one hour, the owner shall notify the Director, Piedmont region within four business hours of the occurrence. In addition, the owner shall provide a written statement, within 14 days, explaining the problem, corrective action taken, and the estimated duration of the breakdown/shut down. The inlet duct to the baghouse was malfunctioning due to buildup of

cement creating a bypass of the control equipment and causing excess emissions. According to plant personnel, the malfunction is a frequent occurrence. No notification of malfunction has been received from the facility in the last 12 months. (9 VAC 5-20-180)

- Condition 16 of the Permit requires that in order to minimize the duration and frequency of excess emissions due to malfunctions of process equipment or air pollution control equipment, the permittee shall: a) develop a maintenance schedule and maintain records of all scheduled and non-scheduled maintenance, and b) maintain an inventory of spare parts that are needed to minimize the duration of an air pollution control equipment breakdown. At the time of inspection no records of scheduled or non-scheduled maintenance had been developed or maintained. (9 VAC 5-20-110)

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. Code § 10.1-1316 C, orders S.B. Cox, and S.B. Cox agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders and S.B. Cox voluntarily agrees to pay a civil charge of \$10,500 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be by check, payable to "Treasurer of Virginia", and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Payment shall include the Federal Tax Identification Number of the facility.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of S.B. Cox, for good cause shown by S.B. Cox, or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves those violations specifically identified herein including those matters addressed in the Notice of Violation issued to S.B. Cox by DEQ on November 15, 2005. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; and/or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate

enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

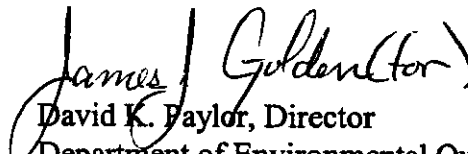
3. For the purposes of this Order and subsequent actions with respect to this Order, S.B. Cox admits the jurisdictional allegations, factual findings and conclusions of law contained herein.
4. S.B. Cox consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. S.B. Cox declares it has received fair and due process under the Administrative Process Act, Code § 2.2-4000 *et seq.*, and the State Air Pollution Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by S.B. Cox to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. S.B. Cox shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. S.B. Cox must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. S.B. Cox shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 business hours of learning of any

condition listed above, which the Parties intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and S.B. Cox. Notwithstanding the foregoing, S.B. Cox agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to S.B. Cox. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve S.B. Cox from its obligation to comply with any statute, regulation, permit condition, other order, certificate, standard, or requirement other wise applicable.
12. By its signature below, S.B. Cox Incorporated voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of Feb. 22, 2006.


David K. Paylor, Director
Department of Environmental Quality

S.B. Cox voluntarily agrees to the issuance of this Order.

By: Morgan Nelson
Morgan Nelson
President

Date: February 16, 2006

Commonwealth of Virginia

City/County of Groethland

The foregoing document was signed and acknowledged before me this 16th day of
February, 2006, by Morgan Nelson, who is President of S.B. Cox, on behalf of the
Corporation.

Rebecca C. Meade
Notary Public

My commission expires: 12/31/07

Appendix A.

S.B. Cox shall:

1. Develop and keep at the facility a written procedure for reporting malfunctions as required under 9 VAC 5-20-180 of the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution and submit this procedure to the Department within 45 days from the effective date of this Order.
2. Provide training to facility personnel on the operation and maintenance of the air pollution control equipment and submit a record of the date of training and individuals in attendance to the Department within 45 days from the effective date of this Order.
3. Develop and implement a comprehensive Operations & Maintenance plan for the pollution control equipment and submit to the Department within 45 days from the effective date of this Order.

